

Service Area Plan

Department of Human Resource Management

Equal Employment Services (70403)

Service Area Background Information

Service Area Description

This statutorily mandated service area is responsible for the administration of a comprehensive equal employment opportunity program. This includes the investigation/ resolution of complaints of illegal discrimination filed by state employees (classified, faculty, wage and probationary) and applicants for state employment as well as the administration of a compliance program to determine whether agencies' human resource management practices result in disparate impact against protected classes. In addition, this service area provides training and technical guidance to state agencies and local governments concerning equal employment opportunity related matters. Moreover, this service area is responsible for responding to appeals of hearing officers' rulings from grievant and agency management officials concerning rulings comportment with state human resource management policies and procedures.

Service Area Alignment to Missio

Equal employment opportunity is an integral component of human resource management. Federal and state anti-discrimination laws prohibit discrimination in all privileges and conditions of employment.

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Service Area Statutory Authority

Code of Virginia at § 2.2-1201(10), Equal Employment Opportunity, establishes and administers a program to assure equal employment opportunity to applicants and to state employees in all incidents of employment;

Governor's Executive Order No. 1 (2002), Equal Employment Opportunity, prohibits state agencies from engaging in unlawful employment discrimination and authorizes OEES to investigate and resolve such complaints;

Code of Virginia at § 2.2-1201(9), Evaluation of Personnel Activities, establishes and administers a program of evaluation of effectiveness of performance of the personnel activities of the agencies;

29 U.S.C. §§ 621-633(a), Age Discrimination in Employment Act of 1967, as amended, prohibits discrimination in all privileges and conditions of employment against persons age 40 and over;

42 U.S.C. Chapter 126, Americans with Disabilities Act of 1990, prohibits discrimination in all privileges and conditions of employment against qualified persons with a disability;

29 U.S.C. § 206, Equal Pay Act of 1963, prohibits differentiation in pay for equal work based on gender;

8 U.S.C. 1324 a & b, Immigration Reform and Control Act of 1986, prohibits discrimination based on national origin and citizenship status in all privileges and conditions of employment;

42 U.S.C. 2000(e)(k), Pregnancy Discrimination Act of 1978, requires employers to treat women affected by pregnancy, childbirth, and related medical conditions, the same as other employees for all employment-related purposes;

42 U.S.C. 2000h 2, Title IX of the Education Amendments of 1972, prohibits discrimination based on gender in all privileges and conditions of employment in education programs or activities that receive federal financial assistance;

42 U.S.C. 2000C-2000E-17, Title VII of the Civil Rights Act of 1964, as amended, prohibits discrimination in all privileges and conditions of employment due to race, color, national origin, gender (including sexual harassment), and religion;

29 U.S.C. § 1607.18, Uniform Guidelines on Employee Selection Procedures, requires employers to determine whether tangible employment practices result in disparate impact against minorities and women, and to take affirmative corrective action if found; and

Code of Virginia at Chapter 413§ 2.2-2903 amended (05), Veterans Preference, requires that "additional consideration" shall be given to veterans who have a service-connected disability rating fixed by the United States Veterans Administration.

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Service Area Customer Base

Customer(s)	Served	Potential
DHRM Internal Service Areas	4	7
Federal Government Agencies	7	10
General Assembly	15	140
General Public	23,250	3,563,770
Governor's office incl. Cabinet & Staff	1	1
Judicial branch	3	7
Legislative branch agencies Legislative branch agencies	6	7
Local Governments	4	960
Other states Other states	49	49
Private Sector	20	270,000
State Agencies	180	180
State Employees	10,125	140,785

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Service Area Products and Service

- Complaints of Discrimination and Appeals

Ø Received 698 complaints of discrimination, involving approximately 1,704 separate and distinct allegations of illegal discrimination (i.e., race, gender, age, retaliation, sexual harassment, religion, national origin, disability, veterans status, etc.).

Ø Investigated/resolved 649 complaints of discrimination consisting of approximately 1,684 allegations of discrimination within an average of 115 days. Standard for case closure is 150 days.

Ø Issued 68 rulings, on behalf of the Director of DHRM, addressing appeals to hearing officers' rulings within two weeks of receipt of all pertinent information. The Code of Virginia mandates that such appeals be addressed within 30 days of receipt of all pertinent information

- EEO Compliance Program

Ø Initiated the Commonwealth's Equal Employment Opportunity Compliance Program consisting of the EEO Assessment Tool, the EEO Calculator, and the Applicant Flow component. These web-based tools include all of the statistical applications sanctioned by the US Supreme Court and the federal Equal Employment Opportunity Commission (EEOC) for determining whether agencies employment practices result in adverse impact against protected groups.

· EEO Assessment Tool - ensures fairness and equity in all tangible employment practices, ensures compliance with all relevant federal and state laws/regulations, and provides agencies with the ability to review proactively their employment practices.

· EEO Calculator - provides agencies with the means to assess potential disparate impact against minorities, women, older employees (40 years and older), and veterans concerning the prospective implementation of certain employment practices, including layoffs, in order to ensure fairness and equity.

· Applicant Flow - determines whether agencies' hiring practices result in disparate impact against the aforementioned groups.

Ø Completed a review of agencies tangible employment practices, as of FY2004, to ensure compliance with the Uniform Guidelines on Employee Selection Procedures, a progeny of Title VII of the Civil Rights Act of 1964, as amended, the Governor's Executive Order Number One (2002), and the Commonwealth's Policy 2.05- Equal Employment Opportunity. Where there are indicators of disparate impact, the law requires that the employer either articulate a legitimate, non-discriminatory business reason or develop a corrective action plan designed to eradicate the disparate impact. A total of 50 agencies were required to address over 125 indicators of disparate impact based on race, gender, age, or veterans status in one or more employment practices.

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Service Area Products and Service

- EEO Training and Technical Assistance

Ø□Conducted 85 training courses, including DHRM's Open Enrollment, covering topics of Legal Recruitment and Selection Practices, Sexual Harassment Prevention (Supervisory and Non-Supervisory employees), ADA for Managers/Supervisors, and Fundamentals of EEO Laws. Attendees represented agencies from all branches of state government, at least seven local governments, and the private sector. Customer rating averaged 5.75 on a six-point scale. DHRM's performance standard is 4.5 on a six-point scale.

Ø□Provided over 287 incidences of technical guidance to state agencies (executive and non-executive branch), and local governments to facilitate their compliance with federal EEO laws/regulations, including but not limited to Title VI and VII of the Civil Rights Act of 1964, the Uniform Guidelines on Employee Selection Procedures (a progeny of Title VII), Title IX of the Educational Amendments of 1972, the Immigration Control and Reform Act, President's Executive Order 11246, Americans with Disabilities Act, Age Discrimination in Employment Act, Equal Pay Act, and Pregnancy Act.

- EEO Outreach

Ø□Responded to approximately 33,750 telephone inquiries from state employees, citizens, legislative staff, private employers, and local governments concerning EEO-related matters.

Ø□Provided technical assistance to a local government (Township of South Boston) by investigating a complaint of sexual harassment against the Police Department.

Ø□Distributed two EEO Updates concerning the U.S. Equal Employment Opportunity Commission (EEOC) fact sheet for accommodating persons with diabetes and employers who are considering allowing an individual with a disability to telework as a reasonable accommodation under the Americans With Disabilities Act (ADA). Distribution included HR Directors and EEO Officers of all executive branch agencies.

Ø□Participated in the Virginia Alternative Dispute Resolution Council. The Council is to provide training and guidance in advancing the use of alternative dispute resolution methods by local governments and executive branch agencies in a wide variety of administrative issues.

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Factors Impacting Service Area Products and Services

Factors Impacting Products and Services

Ø□ Insufficient staffing for the EEO Compliance Program. Of a total staff of seven, including the Director, only have two staff members at 50% to administer this program.

Ø□ Loss of revenue for EEO training in DHRM's Open Enrollment and other free or reduced fee training programs.

Ø□ Insufficient funds to support professional staff development.

Anticipated Changes To Service Area Products and Service

Anticipated Changes to Products and Services

Ø□ In August 2005, agencies will be required to provide data regarding Disciplinary Actions, including terminations by race, gender, age and veterans status. As a result of the completion of this phase, other technical refinements to the EEO Assessment Tool and any funding associated with Performance Management, the number of state agencies having to respond to indicators of disparate impact will increase.

Ø□ Type and volume of complaints of discrimination will increase with the introduction of a new administration, including agency heads, and changes in workforce demographics due to a more diverse and aging workforce.

Ø□ Initiate an Alternative Dispute Resolution process (mediation) to complement the complaint of discrimination investigative process to enhance customer service.

Service Area Financial Summar

	<u>Fiscal Year 2007</u>		<u>Fiscal Year 2008</u>	
	General Fund	Nongeneral Fund	General Fund	Nongeneral Fund
Base Budget	\$582,798	\$5,887	\$582,798	\$5,887
Changes To Base	\$13,458	\$330	\$13,458	\$330
SERVICE AREA TOTAL	\$596,256	\$6,217	\$596,256	\$6,217

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Service Area Objectives, Measures, and Strategies

Objective 70403.01

Provide a high level of service to customers in equal employment issues.

This Objective Has The Following Measure(s):

- Measure 70403.01.01

Equal Employment Services customer satisfaction

Measure Type: Outcome **Measure Frequency:** Annually

Measure Baseline: Customer satisfaction level of 4.5 on a 6 point scale

Measure Target: Customer satisfaction level of 5.0 or higher on a 6 point scale

Measure Source and Calculation:

Customer satisfaction survey

Objective 70403.02

Train managers and supervisor as well as employees on equal employment opportunity laws.

This Objective Has The Following Measure(s):

- Measure 70403.02.01

Equal Employment Services customer satisfaction with training

Measure Type: Outcome **Measure Frequency:** Annually

Measure Baseline: Customer satisfaction level of 4.5 on a scale 6 point scale

Measure Target: Customer satisfaction level of 5.0 or higher on a 6 point scale

Measure Source and Calculation:

Customer satisfaction survey

Objective 70403.03

Identify agencies with indicators of disparate impact and counsel them in order to promote fairness and equity and to minimize the Commonwealth's liability under Title VII and related employment laws.

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This Objective Has The Following Measure(s):

- **Measure 70403.03.01**

Identify agencies with disparate impact indicators using the EEO Assessment Tool

Measure Type: Output **Measure Frequency:** Annually

Measure Baseline: Identify all agencies with disparate impact indicators by July 31st of each year

Measure Target: Identify all agencies with disparate impact indicators by July 31, 2006

Measure Source and Calculation:

Statistical analysis of indicators using the EEO Assessment Tool.

- **Measure 70403.03.02**

Review any additional information submitted by each agency

Measure Type: Output **Measure Frequency:**

Measure Baseline: Complete review of additional information submitted by an agency within 30 days of receipt

Measure Target: Complete review of additional information submitted by an agency within 30 days of receipt

Measure Source and Calculation:

- **Measure 70403.03.03**

Counsel agencies with disparate impact indicators

Measure Type: Output **Measure Frequency:**

Measure Baseline: Counsel 100% of agencies with disparate impact indicators

Measure Target: Counsel 100% of agencies with disparate impact indicators

Measure Source and Calculation: